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MATSON TERMINALS, INC.

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 20, SUBREGION 37

MATSON TERMINALS, INC.,)	Case 20-CA-178312
)	
and)	RESPONDENT MATSON TERMINALS,
)	INC.'S ANSWERING BRIEF TO
HAWAII TEAMSTERS & ALLIED)	GENERAL COUNSEL'S CROSS-
WORKERS UNION, LOCAL 996)	EXCEPTIONS TO THE
)	ADMINISTRATIVE LAW JUDGE'S
)	DECISION (DATED FEBRUARY 20,
)	2018); CERTIFICATE OF SERVICE
)	
_____)	

**RESPONDENT MATSON TERMINALS, INC.'S ANSWERING BRIEF TO GENERAL
COUNSEL'S CROSS-EXCEPTIONS TO THE ADMINISTRATIVE
LAW JUDGE'S DECISION (DATED FEBRUARY 20, 2018)**

I. Introduction

Matson Terminals, Inc. ("Matson") hereby files its Answering Brief to the General Counsel's Cross-Exceptions to the Administrative Law Judge's Decision, dated February 20, 2018 ("Decision") in Case No. 20-CA-178312.

The General Counsel's Cross-Exceptions ask the Board to reverse the ALJ and order the extraordinary remedy of a public reading of the Notice to Employees. As discussed below, the General Counsel's Exceptions should be rejected. The ALJ correctly found that a public reading is unwarranted in light of the clear Board law and the facts of this case.

II. Discussion

A public reading is an "extraordinary" remedy, reserved for those rare cases where the unfair labor practices are egregiously "numerous, pervasive, and outrageous." See *Federated Logistics and Operations*, 340 NLRB 255, 256 (2003) ("The Board may order extraordinary remedies when the Respondent's unfair labor practices are so numerous, pervasive, and outrageous that such remedies are necessary to dissipate fully the coercive effects of the unfair labor practices found"); *Edro Corp. dba Dynawash*, 2015 NLRB LEXIS 228, at *29, 362 NLRB No. 53 (2015) ("Requiring an owner or high official of a company or a union to actually read aloud the notice to its assembled employees has not been typically required except in unusual circumstances. In *Federated Logistics & Operations*, 340 NLRB 255, 256-57 (2003), the Board described this as an 'extraordinary' remedy").

Accordingly, the Board has ordered public reading only in cases that involved a widespread and pervasive series of violations. The violations typically include, among other things, unlawful discharge or discipline. See *Federated Logistics and Operations*, 340 NLRB at 256-57 (ordering public reading where employer unlawfully interrogated employees, created the impression of surveillance, solicited grievances, promised benefits, threatened employees with loss of existing benefits, threatened to move its operations, withheld benefits, and discriminatorily suspended employees for engaging in protected activity); *Jason Lopez' Planet Earth Landscapes, Inc.*, 358 NLRB No. 46 (2012) (ordering public reading where employer

illegally laid off three employees including the leader of organizational campaign who was also a witness in the representation case, promised benefits, threatened to close the business and reopen it under a different name, and committed other violations).

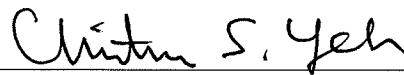
Conversely, a public reading was found to be unwarranted in other situations even where unlawful discharge had occurred. *See Dynawash*, 2015 NLRB LEXIS at 35 (no public reading in case where employer committed unlawful discharge); *NLRB v. Laney & Duke Storage Warehouse Co.*, 369 F.2d 859 (5th Cir. 1966) (no public reading in case where employer unlawfully discharged four employees and also committed “flagrant pre-election violations” including interrogation of employees about union activity, encouragement to engage in anti-union activity, surveillance of union activity, promises of economic benefits and threats of economic reprisals).

In this instance, the ALJ Decision merely found that Matson had unlawfully reassigned a specific type of work. There was no impact on compensation or hours. There were no layoffs, discharges, disciplinary actions, surveillance, promises, threats, or loss of any benefits whatsoever. There was no pattern of misconduct, much less egregious misconduct. This case simply does not fall into the narrow realm of “extraordinary” violations warranting a public reading.

III. Conclusion

Accordingly, Matson respectfully requests that the General Counsel’s Cross-Exceptions be rejected and that no public reading be ordered.

DATED: Honolulu, Hawaii, May 1, 2018.

A handwritten signature in black ink, reading "Christopher S. Yeh". The signature is written in a cursive, flowing style. The first name "Christopher" is written with a large, stylized "C" and "h". The middle initial "S." is written in a smaller, simpler font. The last name "Yeh" is written with a large, stylized "Y" and "h". The signature is positioned above a horizontal line.

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WORKERS UNION, LOCAL 996)	
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was duly served upon the following via electronic mail, to their last known address:

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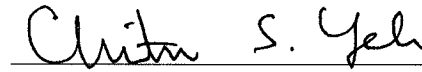
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DATED: Honolulu, Hawaii, May 1, 2018.

A handwritten signature in cursive script, reading "Christopher S. Yeh", is written over a horizontal line.

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